REMARKS

The March 6, 2007 Official Action sets forth a restriction requirement under 35 USC §§121 and 372 based on the examiner's determination that the following groups of claims allegedly lack unity of invention:

Group I, claims 1-10, 14-16, 18, 21-22, 24-29 drawn to a method of screening for a first gene or substance that affects activity of a second gene using a fish that is transgenic for a second gene where in the second gene affects an aspect of behavior or physiology of the fish.

Group II, claims 1-9, 14-18, 21-22, 24-29 drawn to a method of screening for a first gene or substance that affects activity of a treatment using a fish that is subject to a treatment wherein the treatment affects an aspect of behavior or physiology of the fish.

Group III, claims 19, 20 and 21 drawn to a method of screening for test compound that affects activity of a first gene, said first gene affecting activity of a second gene, wherein the second gene affects an aspect of behavior or physiology of a fish and formulating said test compound into a composition.

Group IV, claims 30-35, drawn to a method of determining synergy between two substances or genes that affect activity of a transgene in a fish that is transgenic for a gene of interest wherein the gene of interest affects an aspect of behavior or physiology of the fish.

Group V, claims 30-35, drawn to a method of determining synergy between two substances or genes that affect of a treatment using a fish that is subject to a treatment wherein the treatment affects an aspect of behavior or physiology of the fish.

For the reasons presented below, applicants respectfully traverse and request reconsideration of this requirement for restriction.

In accordance with the present amendment, claims 36, 37 and 39 have been amended in response to the examiner's comments regarding the lack of clarity of those claims. As a result of the present amendment, any lack of clarity that may have been engendered by the original wording of claims 36, 37 and 39 has now been eliminated.

No new matter has been introduced into this application by reason of the present amendment, entry of which is respectfully requested.

Given that the present application was filed under 35 USC §371, as a U.S. national stage application under the Patent Cooperation Treaty, unity of invention standards must be

used to determine the types of claimed subject matter that are permitted to be included in this application. See §1893.03(d) of the Manual of Patent Examining Procedure (MPEP).

The unity of invention standards permit the inclusion in a single application of inventions that are so linked as to constitute a single, general inventive concept, as established by a technical relationship among the inventions that involves at least one common or corresponding special technical feature. As stated in MPEP §1893.03(d), "[t]he expression special technical feature is defined as meaning those technical features that define the contribution which each claimed invention, considered as a whole, makes over the prior art . . ."

Claims 1-29 on one hand and claims 30-35 on the other hand each have a special technical feature in common, namely, the particular combination of method steps recited in each claim group . Notwithstanding the examiner's unsupported contention to the contrary, it is the combination of the recited method steps and not the use of "transgenic" and "treated" fish, respectively, that defines the contribution which each of claim 1 and claim 30 makes over the prior art.

Moreover, given the similarity between the methods of Group I-III, on one hand, and Groups IV and V on the other hand, it appears that the examiner's search with respect to one of the putative, patentably distinct groups of claims would of necessity cover art areas that overlap with the other allegedly distinct groups of claims. Thus, the concurrent examination of all of the Group I-V claims in the present application should not materially effect the examiner's workload.

The impropriety of the present restriction requirement is underscored by the fact that virtually all of the subject matter of the Group I-V claims was examined together during the international stage of this application. Only claims 22 (partially), 23 and 24 of the PCT application were found to lack unity of invention in relation to the other claims. Thus, it is clear from the international stage proceedings that the subject matter of the Group I-V claims is substantially in keeping with the unity of invention standards of the PCT.

Given that the March 6, 2007 Official Action fails to comply with established U.S. Patent and Trademark Office unity of invention guidelines, as demonstrated above, it is respectfully submitted that this restriction requirement should be reconsidered and withdrawn. This is certainly true with respect to the subject matter of the Group IV and V claims, which is patentably indistinct and, therefore, should be examinable together.

In order to be fully responsive to the aforementioned requirement, applicants provisionally elect for examination in this application the subject matter of the Group V claims (claims 30-35, which are drawn to a method of determining synergy between two substances or genes that affect activity of a treatment using a fish that is subject to a treatment wherein the treatment affects an aspect of behavior or physiology of the fish).

Applicants' election in response to the present restriction requirement is without prejudice to their right to file one or more divisional applications, as provided in 35 USC §121, on the subject matter of any claims finally held withdrawn from consideration in this application.

The March 6, 2007 Official action set a shortened statutory response period of one month. The initial due date for response, therefore, was April 6, 2007. A petition for a two month extension of the response period is presented with this amendment and traversal of restriction requirement, which is being filed before the expiration of the two month extension period.

Early and favorable action on the merits of this application is respectfully requested.

Respectfully submitted,

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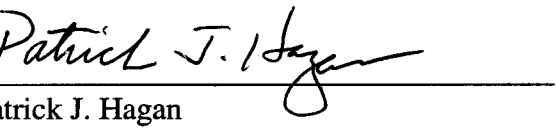
By 

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